



**Universal Service Administrative Company**  
Schools & Libraries Division

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Administrator's Decision on **Appeal** - Funding **Year** 2000-2001

November 16, 2004

David B. Brown  
IBM Americas-Southern & Southwestern Regions  
1507 LBJ Freeway 7<sup>th</sup> Floor  
Dallas, TX 75234

Re: Ysleta Independent School District

Re: Billed Entity Number: 142115  
471 Application Number: 179273  
Funding Request Number(s): 379524  
Your Correspondence Dated: July 12, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision to regard to your appeal of SLD's Funding Year 2000 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number- 379524  
Decision on Appeal: **Denied in full**  
Explanation:

- You have stated that IBM is appealing the decision to the SLD rather than to the FCC because you believe SLD made an error in arriving at its decision. You state that Ysleta Independent School District (YISD), in their response to the audit, indicated that the stored routers in question had been withdrawn from use temporarily but were scheduled to be reinstalled in other locations pending the outcome of the filed Funding Year 2002 application. You state that there appears to be an implication in the audit and the COMAD that the routers were not installed. However, the routers were installed and configured by IBM between October 22, 2001 and November 2001 and in full operation by the end of November, 2001. You indicate that YISD subsequently removed the routers from their network and placed them temporarily in storage pending technical changes to the network and contend that there was no rule in effect prohibiting this action.

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- After a thorough review of the appeal and all relevant documentation, it was determined that during a USAC/KPMG audit site visit, 37 routers included in this funding request were in storage at the Administration and Cultural Arts Center Main Communications building and not connected and being used for educational purposes by the YISD. At the time of the audit, the beneficiary offered a response that stated there are no specific guidelines relating to the timeframe when products purchased with e-rate funds must be used or to the duration of that use. The beneficiary states that the routers were not being used as part of the campus connectivity project because of improvements to the wide area network that made their function in the connectivity configuration redundant and inefficient. However, they did not state that the routers were ever connected and in use for educational purposes before being removed pending improvements in their network. This is a violation of the program rules regarding the applicant's certification that all equipment purchased with e-rate funds is solely intended to be used for educational purposes to bring information to the classroom. With regard to the installation and configuration dates mentioned in the appeal, the SLD can not accept new information on appeal except where an applicant was not given an opportunity to respond or provide additional documentation. Consequently, the appeal is denied.
- On the Forms 470 and 471, the applicant certifies that "the services the applicant purchases at discounts will be used solely for educational purposes 47 C.F.R. § 54.504 (b)(2)(v) 47 C.F.R. § 54.504 (c)(i)(vii).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the Federal Communications Commission (FCC). For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC- You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend, that you use the electronic filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division Universal  
Service Administrative Company

cc: Bill Richardson  
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Sims Drive El Paso, TX 79925

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